

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-against-

SHAQUILLE PERKINS,

Defendant.

19-cr-705 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

Defendant Shaquille Perkins, by and through counsel, seeks leave of the Court to file (1) a motion for access to petit jury selection records, and (2) a motion for severance.

This case was filed on September 17, 2019, and defendant was arraigned and pled not guilty on October 8, 2019. On December 6, 2019, Judge William H. Pauley, III scheduled jury selection and trial for March 23, 2020. On February 11, Judge Pauley set a schedule for pretrial motions, with briefing to be completed by March 16, 2020. Neither of the aforesaid motions was filed. On March 13, 2020, after the parties had begun briefing other motions, Judge Pauley adjourned the trial, and on June 22, 2020, Judge Pauley rescheduled the jury trial for October 5, 2020.

On September 15, 2020, Judge Pauley issued a scheduling order that provided: "Jury selection and trial is scheduled to October 28, 2020. Reply papers on the [previously filed] motions in limine are due by October 1, 2020."

Jury summonses for the October 28, 2020 trial were mailed on September 16, 2020. The case was reassigned to Judge Rakoff on September 17, 2020. A teleconference was held on September 18, 2020 to discuss pretrial matters. The Court reviewed the existing scheduling order with the parties, after which the parties represented there was nothing further to raise. The Court set a pretrial conference for October 8, 2020.

Notwithstanding all the above, on September 24, 2020, defense counsel called the Court jointly with the Government to seek leave to file (1) a motion pursuant to 28 U.S.C. § 1867(f) for access to petit jury selection records, and (2) a motion for severance. It is clear from the foregoing account that both motions are grossly untimely, and the Government opposes on that ground.

With respect to the motion relating to jury selection records, these materials are purportedly sought so that counsel can consider making a still uncertain further motion. But providing the discovery alone would take approximately one month. A jury trial in this case is scheduled for October 28, 2020, a date that is already far later than the Court would have preferred and that, because of the limitations imposed by the pandemic, cannot easily be changed. It follows that the motion for access to the jury selection records is patently untimely, and is therefore denied.

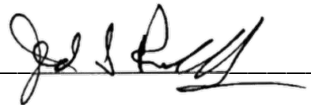
However, even though the other motion, seeking a severance of trial of one of the counts, is also untimely, it would not, even

if granted, stop the trial from going forward on the other counts. Moreover, defense counsel represents that the moving papers can be filed on September 28, and the government represents that it can file its response by two days later, September 30. Accordingly, leave to file the severance motion is granted, but there will be permitted only moving and answering papers.

SO ORDERED.

Dated: New York, NY

September 25, 2020


JED S. RAKOFF, U.S.D.J.